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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

14 DOLORES J. MURPHY, as Trustee of the
15 CHARLES M. MURPHY
16 ADMINISTRATIVE TRUST,

17 Plaintiff,

18 v.

19 UNITED STATES OF AMERICA,
20 Defendant.

Case No. 1:24-cv-00260-KES-BAM

**ORDER RE STIPULATION TO
CONTINUE JOINT SCHEDULING
REPORT DEADLINE AND
MANDATORY SCHEDULING
CONFERENCE (ECF NOS. 26, 30)**

21 Plaintiff Dolores J. Murphy, as Trustee of the Charles M. Murphy Administrative Trust
22 (the “Administrative Trust”), initiated this suit for refund of tax/civil penalties against Defendant,
23 the United States of America, on February 29, 2024. (ECF No. 1.) Defendant, the United States
24 of America’s Answer or other responsive pleading in this case was due on August 5, 2024. The
25 initial mandatory scheduling conference is currently scheduled for January 21, 2025. (ECF No.
26 26).

27 On August 5, 2024, Defendant the United States filed a Notice of Motion to Dismiss (ECF
28 No. 17), United States’ Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) and
Memorandum in Support (ECF No. 17-1), (hereinafter referred to as “Defendant United States’
Motion to Dismiss”), and Declaration of Brian D. Johnson in Support of the United States’ Motion

1 to Dismiss (ECF No. 17-2)..

2 On August 19, 2024, counsel for Plaintiff Dolores J. Murphy, as Trustee of the
3 Administrative Trust, filed Plaintiff's Opposition to Defendant's Motion to Dismiss Pursuant to
4 Fed. R. Civ. P. 12(b)(1) and 12(b)(6) (ECF No. 19) and Declaration of Craig A. Houghton in
5 Support of Plaintiff's Opposition to Defendant's Motion to Dismiss Pursuant to Fed. R. Civ. P.
6 12(b)(1) and 12(b)(6) (ECF No. 19-1)..

7 On August 22, 2024, the Court filed a Minute Order (ECF No. 20) ordering Robert C.
8 Bombard to file a declaration detailing the parties' meet and confer efforts prior to the filing of
9 Defendant United States Motion to Dismiss and Supporting Memorandum and Declaration.

10 On August 26, 2024, Robert C. Bombard filed the Declaration of Robert C. Bombard (ECF
11 No. 21) pursuant to the Court's August 22, 2024, Minute Order (ECF No. 20).

12 On August 28, 2024, Defendant United States filed United States' Reply to Plaintiff's
13 Opposition to Defendant's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6)
14 (ECF No. 22).

15 Per Minute Orders filed by the Court on September 16, 2024, and September 18, 2024,
16 (ECF Nos. 24 and 25), the Court set the hearing on Defendant United States' Motion to Dismiss
17 for November 4, 2024. The hearing on Defendant United States' Motion to Dismiss was held and
18 argued before the Honorable Kirk E. Sherriff on November 4, 2024. After the hearing, the Court
19 filed a Minute Order (ECF No. 27) allowing Plaintiff Dolores J. Murphy, as Trustee of the
20 Administrative Trust, to file a supplemental memorandum of points and authorities in support of
21 Plaintiff's Opposition to Defendant United States' Motion to Dismiss and Supporting Declaration
22 by November 4, 2024, and Defendant United States to file a reply thereto by November 25, 2024,
23 and to then take the matter under submission.

24 On November 4, 2024, Plaintiff Dolores J. Murphy, as Trustee of the Administrative Trust,
25 filed her Supplemental Memorandum of Points and Authorities Regarding the Proper
26 Determination of Reasonable Cause and No Willful Neglect Under 26 U.S.C. §§ 6651(a)(1) and
27 6651(a)(2) (ECF No. 28).

28 On November 25, 2024, Defendant United States filed United States' Response to

1 Plaintiff's Supplemental Memorandum of Points and Authorities Regarding the Proper
2 Determination of Reasonable Cause and No Willful Neglect Under 26 U.S.C. §§ 6651(a)(1) and
3 6651(a)(2) (ECF No. 29).

4 On January 13, 2025, the parties filed a Stipulation to Continue Joint Scheduling Report
5 Deadline and Mandatory Scheduling Conference (ECF No. 30) stipulating to a continuance of the
6 mandatory scheduling conference since Defendant United States' Motion to Dismiss is currently
7 pending before the Court. The parties proffer that until the Court has ruled on Defendant United
8 States' Motion to Dismiss, much of the information that counsel for the parties will need to
9 prepare the joint scheduling report and to meaningfully participate in the mandatory scheduling
10 conference is not available; thus, it is premature to hold the mandatory scheduling conference at
11 this time. (*Id.*). Thus, the parties have requested a continuance of the mandatory scheduling
12 conference currently set for January 21, 2025, for a period of ninety (90) days to April 21, 2025,
13 or such other date as may be determined by the Court, to allow the Court additional time to rule on
14 Defendant United States' Motion to Dismiss and, if such motion is denied, for Defendant the
15 United States to file an answer to the Complaint so counsel for the parties will have the
16 information that counsel for the parties will need to prepare the joint scheduling report and to
17 meaningfully participate in the mandatory scheduling conference. (*Id.*).

18 The Court finds that good cause exists to grant the requested extension of the mandatory
19 scheduling conference in this case.

20 Accordingly, IT IS HEREBY ORDERED that:

21 1. The Mandatory Scheduling Conference currently set for January 21, 2025, is
22 continued to **April 21, 2025, at 9:00 AM in courtroom 8 (BAM) before Magistrate Judge**
23 **Barbara A. McAuliffe**. The parties shall appear at the conference remotely via Zoom video
24 conference. The parties will be provided with the Zoom ID and password by the Courtroom Deputy
25 prior to the conference. The Zoom ID number and password are confidential and are not to be
26 shared. Appropriate court attire required; and

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2. The parties shall file a joint scheduling report seven (7) days prior to the scheduling conference.

IT IS SO ORDERED.

Dated: **January 14, 2025**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE